

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON**

PETER PARRINO

Plaintiff,

VS.

AMERITAS INVESTMENT COMPANY, LLC,

and

LPL FINANCIAL LLC

Defendants.

Case No.:

COMPLAINT

DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, Peter Parrino (“Mr. Parrino”), by and through his attorneys, Israels & Neuman PLC and Halling & Cayo, S.C., and for his Complaint against the Defendants, Ameritas Investment Company, LLC (“Ameritas Investment”), and LPL Financial LLC (“LPL Financial”), states as follows:

JURISDICTION AND VENUE

1. The District Court had jurisdiction as a civil action arising under the laws of the United States pursuant to 28 U.S.C. § 1332 (Diversity of Citizenship).

2. Plaintiff, Peter Parrino is an adult resident of the State of Washington, whose home address is located within the Western District of Washington.

3. Defendant Ameritas Investment is a limited liability company formed within the State of Nebraska with its principal place of business located at 5900 O Street, Lincoln, NE 68510. Upon information and belief, none of the members of the limited liability company are residents of the State of Washington.

4. Defendant LPL Financial is a limited liability company organized in the State of California with its principal place of business located at 4707 Executive Drive, San Diego, CA 92121. Upon information and belief, none of the members of the limited liability company are residents of the State of Washington.

5. The amount in controversy exceeds \$75,000.

PARTIES

6. The Plaintiff, Peter Parrino, is an adult resident of the State of Washington residing at 511 N 48th Street, Seattle, WA 98103.

7. Defendant, Ameritas Investment Company, LLC (CRD# 14869) is a Broker-Dealer registered and regulated by FINRA. Ameritas Investment's principal place of business is located at 5900 O Street, Lincoln, NE 68510.

8. Defendants, LPL Financial LLC (CRD# 6413) is a Broker-Dealer registered and regulated by FINRA. LPL Financial's principal place of business is located at 1055 LPL Way, Fort Mill, SC 29715.

FACTUAL ALLEGATIONS

9. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

10. In 2011, Mr. Parrino, a board-certified physician, started working with Mr. Ignatowski after he met Mr. Ignatowski through his accountant.

11. At this time, Mr. Ignatowski was a registered representative with Ameritas Investment.

12. Mr. Parrino made clear his goal was to be able to transition from practicing

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2 emergency medicine in approximately 5 to 10 years.
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5 13. During that same year, Mr. Ignatowski recommended that Mr. Parrino purchase
6 two Brighthouse Variable Annuity Series L annuities (Contract Nos. 3205356759 and 3205356957
7 – collectively referred to as the “Brighthouse Annuities”) with funds from Mr. Parrino’s traditional
8 IRA account.
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11 14. Mr. Ignatowski represented these annuities as safe investments that were
12 appropriate for Mr. Parrino even though these investments have been criticized by the Financial
13 Industry Regulatory Authority (“FINRA”), the government authorized organization that oversees
14 U.S. Broker-Dealers, for their high internal costs¹.
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17 15. Ameritas Investment, by and through its agent, Mr. Ignatowski repeatedly
18 represented to Mr. Parrino that the annuities would receive a guaranteed “dollar-for-dollar” return
19 of 6% as the “floor” for investment returns, which Mr. Parrino could withdraw from the annuity
20 at any time.
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23 16. Mr. Ignatowski further represented to Mr. Parrino that additional increases in
24 returns would be governed by market performance, which would be captured by “step-ups,” which
25 were graphically demonstrated in product literature provided to Mr. Parrino, which guaranteed
26 investment returns while capturing market gains.
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17. Pursuant to Ameritas Investments’ agent’s recommendation, Mr. Parrino’s entire
retirement savings were rolled from a traditional IRA brokerage account with Charles Schwab into
a traditional IRA at Ameritas Investment. These funds were used to purchase the Brighthouse
Annuities.

18. In 2014, Brighthouse stopped accepting contributions to the Series L annuities. Mr.
Ignatowski, now registered with LPL Financial, recommended that Mr. Parrino invest in Series L

26 ¹ <https://www.finra.org/media-center/news-releases/2016/finra-fines-eight-firms-total-62-million-supervisory-failures-related#:~:text=WASHINGTON%20E2%80%94%20The%20Financial%20Industry%20Regulatory%20Authority%20%28FINRA%29,failing%20to%20supervise%20sales%20of%20variable%20annuities%20%28VAs%29.>

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2 Variable Annuities from Equitable Financial Life Insurance Company (Contract Nos. 314024087
3 and 314066295) within Mr. Parrino's IRA.
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5 19. Mr. Parrino accepted Mr. Ignatowski's recommendations and purchased the
6 Equitable Annuities.
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8 20. At this point, the majority of Mr. Parrino's retirement savings consisted of four
9 annuity contracts.
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11 21. LPL Financial, by and through its agent, Mr. Ignatowski, reassured Mr. Parrino that
12 the new Equitable Annuities were appropriate investments and that they were consistent with his
13 investment and retirement goals.
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15 22. However, in reality, the Brighthouse Annuities Mr. Parrino was sold by Ameritas
16 Investments were illiquid, had high internal fees, and included riders that were expensive, illusory,
17 conflicting, and carried deceptive fee structures.
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19 23. Mr. Parrino specifically consulted with Mr. Ignatowski on whether he could use the
20 guaranteed income from the annuities to retire more quickly. Mr. Ignatowski assured Mr. Parrino
21 that if he were to dutifully fund his annuities, he would be able to withdraw up to 6% of the GMIB
22 for the rest of his life from the Brighthouse Annuities. If he withdrew less, the GMIB would
23 increase, and future withdrawals would also increase.
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25 24. For example, the Guaranteed Minimum Income Benefit rider in the Brighthouse
26 Annuities required Mr. Parrino to annuitize to receive the guaranteed income benefit, which would
27 require forfeiting the principal and the life insurance benefit to receive a guaranteed lifetime
income stream. This was a fact that Mr. Ignatowski misrepresented to Mr. Parrino; the guaranteed
6% return only applied to the non-cash component used to calculate the ultimate income stream
after owning the policy for 10 years.
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29 25. Mr. Ignatowski represented to Mr. Parrino that annuitization would "never happen"
30 as long as Mr. Parrino kept annual withdrawals from the annuity at no more than 6%. In reality, if
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2 Mr. Parrino were to take 6% payments from the annuity starting today, Mr. Parrino would only be
3 able to take payments for 6 to 7 years. At this point, annuitization would be forced, which would
4 reduce the payments Mr. Parrino would receive by 38% annually thereafter.

5 26. Lastly, the riders in the Brighthouse Annuities that Mr. Ignatowski sold to Mr.
6 Parrino had investment restrictions for the sub-accounts. The restricted selections prevented Mr.
7 Parrino from investing in a diversified portfolio to achieve reasonable growth, which was the
8 reason significant “step-ups” in the rate of return were not achieved even in 10 years of stellar
9 stock market performance.

10 27. LPL Financial, by and through its agent, Mr. Ignatowski, also misrepresented how
11 the Equitable Annuities would function as a means of producing guaranteed retirement returns.

12 28. Mr. Ignatowski represented to Mr. Parrino that the annuities promised a guaranteed,
13 no-risk, “dollar-for-dollar” minimum 4% return with the potential for greater returns when the
14 market was performing well.

15 29. Again, the restrictions within the annuity contracts on the sub-accounts that could
16 be selected once again prevented significant principal growth. Compounding the problem, Mr.
17 Ignatowski again sold Mr. Parrino conflicting, expensive, and useless riders that destroyed any
18 chance of the annuities making money over time.

19 30. Mr. Parrino was not only misled about the annuities and their performance, but the
20 sub-accounts selected for Mr. Parrino’s policy were also burdened with an excessive fixed income
21 load. The gains in the sub-accounts barely covered the cost of insurance from their inception.
22 Despite this, Defendants continued to recommend that Mr. Parrino invest in these unsuitable sub-
23 accounts, which were destined to fail to deliver as promised.

24 31. Further, over the course of funding the annuities, Mr. Parrino was forced to pay
25 more than \$395,000 in fees on the products sold to him by Defendants.

26 32. Mr. Parrino, following Mr. Ignatowski’s recommendations, dutifully paid over \$1.4

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2 million into these annuity contracts as follows:

<u>Contract</u>	<u>Original</u>	<u>Total Purchase</u>
<u>Number</u>	<u>Issue Date</u>	<u>Payments Since Issue</u>
Brighthouse - 6957	10/4/2011	\$305,472.47
Brighthouse - 6759	9/30/2011	\$555,882.08
Equitable - 295	10/30/2014	\$188,082.80
Equitable - 087	4/25/2014	<u>\$382,702.00</u>
TOTALS		\$1,433,939.35

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12 33. In 2021, at the age of 55, after meeting the grueling demands of practicing
13 emergency medicine for over 25 years, including diligently working with his group through three
14 peaks of the COVID-19 pandemic, Mr. Parrino became determined to put the retirement plan that
he was sold by the Defendants into action.

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16 34. Mr. Parrino initially lived off the funds he had available outside of his retirement
17 investments, but in 2023, two years after Mr. Parrino left his emergency medicine position, he
investigated the process for withdrawing from his annuities to cover his expenses.

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19 35. When Mr. Parrino inquired about withdrawing from his annuities, he was informed
20 by both insurance companies that the contracts did not function as claimed by Mr. Ignatowski,
21 Ameritas Investment, and LPL Financial. After several telephone conversations with both
22 Brighthouse and Equitable, Mr. Ignatowski's staff, and Mr. Ignatowski, it became clear that the
investments Mr. Parrino had been sold were not as represented by Mr. Ignatowski.

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24 36. As a result, Mr. Parrino first came to realize in 2023 that he was not going to be
able to draw down funds from the annuity contracts to meet his retirement needs, that many of the
representations made by Mr. Ignatowski were false, and that the annuities were not appropriate for
him or his stated retirement goals.

37. The devastating truth is that Mr. Parrino has lost 10 years of investment growth due to the improper recommendations, and misrepresentations made by the Defendants. As a result, Mr. Parrino is now unable to recover opportunities that would be available if Mr. Ignatowski had made suitable recommendations to Mr. Parrino or truthfully described the investments he was recommending.

38. Mr. Parrino would have been much better off if he had been sold a simple, non-alternative, legacy mutual fund by Mr. Ignatowski instead of a portfolio of high commission annuities. Indeed, rather than growing his retirement account over this period, Mr. Parrino *lost* money.

39. The surrender value of the annuity policies was \$1,384,145.55 as of May 2023, indicating a loss in value in the annuity contracts during a time period where the S&P 500 has gained 225%.

40. Mr. Parrino is a retail investor who suffered significant losses due to the investment recommendations made by Ameritas Investment and LPL Financial through their associated person and/or registered representative, Mr. Ignatowski.

41. Without being fully informed about the intricacies of variable annuities, Mr. Ignatowski assured Mr. Parrino that these annuities were a “good,” “high-return,” and “guaranteed return” investment that aligned with his stated investment objectives and retirement strategy. Mr. Ignatowski directly misrepresented or failed to disclose material facts about the annuity contracts to Mr. Parrino, including: the high internal insurance and rider fees, investment restrictions on selecting sub-accounts, and the risks associated with mediocre or negative performance.

42. As a result of the actions of Ameritas Investment and LPL Financial, Mr. Parrino experienced substantial financial losses.

Liability of Ameritas Investment and LPL Financial for Actions of their Associated Persons

43. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

44. Nick Ignatowski served as an associated person (also known as a registered representative) with Ameritas Investment from 2003 through 2013 and with LPL Financial from 2013 through to the present date. His CRD number is 2409399.

45. As an associated person with Ameritas Investment and LPL Financial, Mr. Ignatowski's duties included recommending and selling securities to investors, such as Mr. Parrino.

46. At all times relevant to this Statement of Claims, Mr. Ignatowski was acting within the scope of his employment and/or agency for Ameritas Investment and LPL Financial and was acting in the furtherance of Ameritas Investment and LPL Financial's goals.

47. Pursuant to the doctrine of respondeat superior, the Defendants, Ameritas Investment and LPL Financial, are responsible for the conduct of their associated persons and registered representatives, employees, and agents acting within the scope of their employment/agency and in furtherance of the goals of Ameritas Investment and LPL Financial.

48. Further, pursuant to the doctrine of apparent authority, Ameritas Investment and LPL Financial are responsible for the conduct of its associated persons and registered representatives, employees, and agents, whom they authorize to conduct business on their behalf including recommending and selling securities.

49. Therefore, Ameritas Investment and LPL Financial are liable to Mr. Parrino for the conduct of their associated persons and registered representatives, agents, and employees, including Mr. Ignatowski.

First Cause of Action: Breach of Fiduciary Duty

50. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

51. Breach of fiduciary duty is merely negligence of a professional. *Waddoups v. Nationwide Life Ins. Co.*, 2016 Wash. App. LEXIS 508, at *58 (2016).

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2 52. The cause of action is sounded in tort and duties imposed by reason of a special
3 relationship rather than in contract. *Hudson v. Condon*, 101 Wn. App. 866, 873, 6 P.3d 615 (2000);
4 *GW Constr. Corp. v. Professional Serv. Indus., Inc.*, 70 Wn. App. 360, 364, 853 P.2d 484 (1993).

5 53. The plaintiff must prove the following elements: (1) existence of a duty owed, (2)
6 breach of that duty, (3) resulting injury, and (4) causation between the breach and injury. *Miller v.*
7 *U.S. Bank of Wash.*, 72 Wn. App. 416, 426, 865 P.2d 536 (1994); *Am. Commerce Ins. Co. v.*
8 *Ensley*, 153 Wn. App. 31, 42, 220 P.3d 215 (2009).

9 54. Because of the special relationship, the fiduciary holds higher duties beyond
10 ordinary negligence, which duties include acting in the best interest of the client and avoiding
11 conflicts of interest. *Trask v. Butler*, 123 Wn.2d 835, 843, 872 P.2d 1080 (1994); *In re Estate of*
12 *Larson*, 103 Wn.2d 517, 520, 694 P.2d 1051 (1985); *In re Marriage of Petrie*, 105 Wn. App. 268,
13 276, 19 P.3d 443 (2001).

14 55. In a fiduciary relationship, one party occupies such a relation to the other party as
15 to justify the latter in expecting that his interests will be served. *Liebergesell v. Evans*, 93 Wn.2d
16 881, 889-90, 613 P.2d 1170 (1980); *Micro Enhancement Int'l, Inc. v. Coopers & Lybrand, LLP*,
17 110 Wn. App. 412, 433, 40 P.3d 1206 (2002).

18 56. A fiduciary relationship arises as a matter of law in certain contexts such as attorney
19 and client, doctor and patient, trustee and beneficiary, principal and agent, and partner and partner;
20 financial planners owe a fiduciary duty to their customers. *McGraw v. Wachovia Sec., LLC*, 756
21 F. Supp. 2d 1053, 1078 (N.D. Iowa 2010); *Johnston v. CIGNA Corp.*, 916 P.2d 643, 647 (Colo.
22 App. 1996).

23 57. Mr. Ignatowski owed a fiduciary duty to Mr. Parrino in connection with the
24 recommendation to sell the annuities to Mr. Parrino as well as in connection with any continued
25 representations that were made to Mr. Parrino in relation to the annuities.

26 58. Ameritas Investment and LPL Financial had a duty to supervise its agents to ensure

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that its registered representatives were only recommending suitable investments to investors, like Mr. Parrino. This required Ameritas Investment and LPL Financial to properly supervise its agents, to conduct appropriate due diligence on the Brighthouse and Equitable Annuities prior to selling the annuities to investors, and providing training for their associated persons and registered representatives who recommended and sold the annuities to the public, like Mr. Ignatowski.

59. Given the entirely unsuitable nature of the initial recommendations to purchase the annuities, the ongoing advice regarding continuing to make payments into the annuities, and the unsuitable sub-account allocation, Ameritas Investment and LPL Financial failed to properly supervise Mr. Ignatowski in connection with the annuities that were sold to Mr. Parrino.

60. Further, despite being aware that the investments had failed to meet Mr. Parrino's needs, Mr. Ignatowski continued to make unsuitable recommendations. He urged Mr. Parrino to keep the annuity contracts, even though the sub-accounts were underperforming and not meeting the cost of insurance.

61. Throughout the entire time that Mr. Parrino held the annuities, Mr. Ignatowski never suggested surrendering or transitioning to a more suitable alternative. Instead, he continued to recommend holding onto the investments and following the same flawed strategy in the sub-accounts. Mr. Parrino was sold illiquid investments as an alternative to traditional growth investments, such as mutual funds, without anyone investigating whether they were suitable for him.

62. Further, Mr. Ignatowski did not recommend that Mr. Parrino invest in a broad, diversified investment portfolio that focused on reasonable growth supplemented with lower cost term life insurance. Instead, Mr. Ignatowski continued to recommend holding the annuity products, which prevented Mr. Parrino from participating in the stock market, which would have been suitable, in Mr. Parrino's best interest, and would have actually met his retirement goals.

63. By failing to implement supervisory procedures and systems designed to ensure

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that suitable investments were recommended and sold by their associated persons and/or registered
representatives, or that its agents' ongoing advice was suitable, Ameritas Investment and LPL
Financial breached their supervisory duties to Mr. Parrino.

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64. Ameritas Investment and LPL Financial also failed to educate and train their registered representatives and those who supervised them. Specifically, Ameritas Investment and LPL Financial failed to implement adequate supervisory procedures and systems to ensure compliance with industry standards of care set forth in NASD Rules of Fair Practice or federal and state securities laws.

65. Mr. Ignatowski clearly did not understand the narrow band of candidates who would have been suitable investors for the Brighthouse and Equitable Annuities. Mr. Parrino was not a suitable investor for these products.

66. Ameritas Investment and LPL Financial breached the fiduciary duty that was owed to Mr. Parrino in many ways, including, but not necessarily limited to: (1) failing to perform customer-specific suitability analysis to determine whether the Brighthouse and Equitable Annuities were suitable for Mr. Parrino, (2) failing to provide appropriate training to their associated persons and/or registered representatives, including Mr. Ignatowski, who recommended and sold the Brighthouse and Equitable Annuities to Mr. Parrino, (3) providing ongoing advice to Mr. Parrino that was not consistent with his investment objectives and risk tolerance, and (4) misrepresenting the nature of the investments and the returns that were expected were "guaranteed."

67. These breaches by Ameritas Investment and LPL Financial were the proximate and actual cause of harm to Mr. Parrino in an amount to be determined at trial.

Second Cause of Action: Negligence

68. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

69. Ameritas Investment and LPL Financial and their associated persons each owed a

duty of care to their account holders, including Mr. Parrino. Those duties included only making suitable recommendations of securities to Mr. Parrino as well as making suitable ongoing recommendations regarding the investments and the annuity sub-accounts.

70. Deferred variable annuities are hybrid investments containing securities and insurance features. Their sales are regulated both by FINRA and the Securities and Exchange Commission (SEC). These annuities offer investors choices among a number of complex contract features and options. Due to the complexity and confusion surrounding them, which can lead to questionable sales practices, variable annuities are a leading source of investor complaints to FINRA.

71. FINRA Rule 2330 establishes sales practice standards regarding recommended purchases and exchanges of deferred variable annuities. Among the rule's key requirements, a registered representative, when recommending a deferred variable annuity transaction, must reasonably believe the customer has been informed of the various features of this type of annuity, such as a surrender charge, potential tax penalties, various fees and costs, and market risk. A registered representative must have a reasonable basis to believe the customer would benefit from certain features of deferred variable annuities, such as tax-deferral, annuitization, or a death or living benefit.

72. A reasonably prudent investment advisor in Mr. Ignatowski's would have sold Mr. Parrino a broad and diversified portfolio of liquid investments.

73. Ameritas Investment and LPL Financial breached their duty of care to Mr. Parrino by failing to: (1) perform customer-specific suitability analysis to determine whether the Brighthouse and Equitable Annuities were suitable for Mr. Parrino, and (2) provide appropriate training to their associated persons and/or registered representatives, including Mr. Ignatowski, who recommended and sold the Brighthouse and Equitable Annuities to Mr. Parrino, (3) provide ongoing advice to Mr. Parrino that was not consistent with his investment objectives and risk

tolerance, and (4) misrepresent the nature of the investments and the returns that were expected were “guaranteed.”

74. Ameritas Investment and LPL Financial, by and through its agent, Mr. Ignatowski, failed to act as a reasonably prudent investment advisor would act under similar circumstances, resulting in a breach of the duty that was owed to Mr. Parrino.

75. Due to Ameritas Investment and LPL Financial breaching its duties, Mr. Parrino was sold unsuitable investments and was given ongoing unsuitable advice regarding the continued premium payments and allocation for the sub-accounts that the annuities were invested in.

76. Absent Ameritas Investment and LPL Financial’s acts and omissions, Mr. Parrino would not have been sold the unsuitable investments and would not have continued to effectively pour money down the drain all the way into 2023.

77. As a result, Mr. Parrino was damaged in an amount to be determined at trial, including attorneys’ fees.

Third Cause of Action: Negligence: Failure to Supervise

78. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

79. “The theory of negligent supervision creates a limited duty to control an employee for the protection of third parties, even where the employee is acting outside the scope of employment.” *Niece v. Elmview Grp. Home*, 131 Wn.2d 39, 51, 929 P.2d 420 (1997).

80. To establish a claim for negligent supervision, the Plaintiff must show: (1) the agent [Mr. Ignatowski] acted outside the scope of his employment with the Broker [Ameritas Investment and LPL Financial], (2) he presented a risk of harm, (3) the Broker [Ameritas Investment and LPL Financial] knew, or should have known in the exercise of reasonable care, that Mr. Ignatowski posed a risk to others, and (4) the Broker’s [Ameritas Investment and LPL Financial] failure to supervise was a proximate cause of the loss. *LaPlant v. Snohomish County*, 162 Wn. App. 476, 479 n.7, 271 P.3d 254 (2011).

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2 81. NASD [which is now FINRA] is a self-regulatory organization registered with the
3 SEC. The Exchange Act authorizes the NASD “to develop and enforce rules of professional
4 conduct for its member firms, subject to oversight by the SEC.” *Gurfel v. Sec. & Exch. Comm’n*,
5 340 U.S. App. D.C. 292, 205 F.3d 400, 400 (2000).

6 82. “[A] person cannot lawfully engage in the securities business unless he or she is
7 either registered with the NASD as a broker-dealer or as a person associated with a broker-dealer.”
8 *Hollinger v. Titan Capital Corp.*, 914 F.2d 1564, 1573 (9th Cir. 1990).

9 83. As a condition of the right to engage in the securities business, broker-dealers and
10 registered representatives must abide by NASD rules and regulations. *As You Sow v. AIG Fin.*
11 *Advisors, Inc.*, 584 F. Supp. 2d 1034, 1048 (M.D. Tenn. 2008). While NASD [now FINRA] rules
12 do not create a private cause of action, courts have looked to the Rules to define the scope of a
13 common law duty such as negligent supervision. *Craighead v. E.F. Hutton & Co.*, 899 F.2d 485,
14 493 (6th Cir. 1990).

15 84. FINRA Rule 3110(a) sets a standard of care for the industry which requires each
16 FINRA member to “establish and maintain a system to supervise the activities of each associated
17 person that is reasonably designed to achieve compliance with applicable securities laws and
18 regulations, and with applicable NASD and FINRA rules.”

19 85. FINRA Rule 3110(a) requires all brokerage firms to supervise their associated
20 persons’ compliance with all NASD rules.

21 86. Ameritas Investment and LPL Financial were under the duty to supervise the sale
22 of all securities by their associated persons and registered representatives, including Mr.
23 Ignatowski.

24 87. FINRA Rule 2330 requires a registered principal to review and determine whether
25 to approve a customer’s application for a deferred variable annuity before sending the application
26 to the issuing insurance company. A principal can approve the transaction only if it is suitable
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2 based on the factors that a registered representative must consider when making a
3 recommendation.

4 88. FINRA Rule 2330 requires firms to establish and maintain written supervisory
5 procedures reasonably designed to comply with the rule's standards. Firms must implement
6 policies and procedures and training programs for registered representatives who sell deferred
7 variable annuities and for registered principals who review these transactions.

8 89. Ameritas Investment and LPL Financial breached the duty it owed to Mr. Parrino
9 by, among other things: (1) failing to either develop adequate procedures to ensure the suitability
10 of sales of investments, or to implement, follow, and enforce their own guidelines regarding the
11 suitability of sales of securities; (2) failing to ensure and have systems in place to ensure that the
12 investments sold to Mr. Parrino were suitable; (3) negligently training their associated persons
13 and/or registered representatives, including Mr. Ignatowski, about the investments he was selling,
14 as required by FINRA, to meet their reasonable-basis suitability obligations; (4) negligently
15 permitting its registered representative to continue to give ongoing unsuitable investment advice
16 regarding ongoing payments into the annuity contracts and management of the sub-accounts; and
17 (5) negligently supervising Mr. Ignatowski's sales of unsuitable investments and ongoing
18 unsuitable recommendations to Mr. Parrino regarding payments into the annuity contracts and sub-
19 account allocation.

20 90. Ameritas Investment and LPL Finacial's acts and omissions injured Mr. Parrino.
21 Indeed, but for Ameritas Investment and LPL Finacial's omissions and inaction, Mr. Parrino would
22 not have been sold unsuitable investments or continued to pour money into the annuity contracts.

23 91. Accordingly, Ameritas Investment and LPL Financial are liable for damages in an
24 amount to be proved at trial.

25 **Fourth Cause of Action: Fraud**

26 92. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

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2 93. In order to prove fraud, a party is required to establish the following nine elements:
3 (1) representation of an existing fact, (2) materiality, (3) falsity, (4) the speaker's knowledge of its
4 falsity, (5) intent of the speaker that it should be acted upon by the plaintiff, (6) plaintiff's ignorance
5 of its falsity, (7) plaintiff's reliance on the truth of the representation, (8) plaintiff's right to rely
6 upon it, and (9) damages suffered by the plaintiff. *Brunns v. Phx. Investigations*, No. 46755-7-I,
7 2002 Wash. App. LEXIS 1855, at *7 (Ct. App. Aug. 5, 2002).

8 94. Mr. Ignatowski misrepresented the nature of the annuity investments and the
9 returns that were expected and "guaranteed."

10 95. Ameritas Investment and LPL Financial, by and through their agent, Mr.
11 Ignatowski, omitted, or outright misstated, numerous material facts in the solicitation and sale of
12 the investments that were sold to Mr. Parrino.

13 96. Ameritas Investment and LPL Financial and its agents knew that the representations
14 made were not true (and that material omissions had been made), made the representations (and
15 omitted material facts) with reckless disregard as to whether they were true, or negligently made
16 the misrepresentation(s).

17 97. Ameritas Investment and LPL Financial necessarily ought to have known the truth
18 or untruth of the representations made and its agents had the duty to make a reasonable and diligent
19 investigation of the representations that were made to Mr. Parrino both orally and in writing to
20 ensure that statements were true and that there were not omissions of material fact in order to make
21 the statement made regarding the investments not misleading.

22 98. Ameritas Investment and LPL Financial and its agents made the misrepresentations
23 and omissions of material facts with the intent to deceive Mr. Parrino.

24 99. Mr. Parrino was unaware that the misrepresentations were not true, believed the
25 representations to be true, and relied on those representations to his detriment.

26 100. As a direct and proximate result of the conduct of Defendants and its agents, Mr.
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Parrino sustained damages in an amount to be determined at trial, including punitive damages.

Fifth Cause of Action: Negligent Misrepresentation

101. The Plaintiffs reallege all preceding paragraphs as if fully set forth herein.

102. The elements of negligent misrepresentation are: (1) a false statement, (2) made to induce a business transaction, (3) upon which the other party justifiably relies. *Controlled Atmosphere, Inc. v. Brandom Instrument Co.*, 50 Wn. App. 343, 350-51, 748 P.2d 686 (1988). The negligent omission of a material fact is sufficient to satisfy the first element of negligent misrepresentation. *Amtruck Factors v. Int'l Forest Prods.*, 59 Wn. App. 8, 18, 795 P.2d 742, 748 (1990).

103. Mr. Ignatowski misrepresented the nature of the annuity investments and the returns that were expected and/or “guaranteed.”

104. Ameritas Investment and LPL Financial, by and through their agent, Mr. Ignatowski, omitted, or outright misstated, numerous material facts in the solicitation and sale of the investments that were sold to Mr. Parrino.

105. Mr. Parrino was unaware that the misrepresentations were not true, believed the representations to be true, and relied on those representations to his detriment.

106. As a direct and proximate result of the conduct of Defendants and its agents, Mr. Parrino sustained damages in an amount to be determined at trial, including punitive damages.

WHEREFORE, the Plaintiffs request that the following relief:

- 1) Ameritas Investment and LPL Financial pay Mr. Parrino for their losses suffered as a result of the sales of unsuitable investments, in an amount to be determined at hearing; and
 - 2) Ameritas Investment and LPL Financial pay Mr. Parrino well-managed damages, for the benefit of the bargain that was sold to him, and/or punitive damages, as well as expert fees, and forum fees as a result of Ameritas Investment and LPL Financials' egregious conduct.

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury on all claims so triable.

Date: June 8, 2023

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